2018 IL App (4th) 170294-U

NO. 4-17-0294

FILED
March 30, 2018
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re PARENTAGE OF K.L.	)	Appeal from
	)	Circuit Court of
(CAROLYN WEBB,	)	Sangamon County
Petitioner-Appellant,	)	No. 12F524
	)	
v.	)	
	)	Honorable
RICHARD LIGHTSEY,	)	Jack D. Davis II,
	)	
Respondent-Appellee).	)	Judge Presiding.

JUSTICE HOLDER WHITE delivered the judgment of the court.
Presiding Justice Harris and Justice DeArmond concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court affirmed in part but vacated the trial court's child-support modification order and remanded with directions.

¶ 2 In October 2013, the trial court entered an order providing for joint custody of the parties' minor child, K.L. (born October 27, 2010). The order established petitioner, Carolyn Webb, as the primary residential custodian of K.L. and further obligated respondent, Richard Lightsey, to pay $1000 in monthly child support, based on his monthly retirement income of $6643 from his pension. In September 2014, petitioner filed a petition for modification of child support, alleging respondent was employed and was paying significantly less than the statutory child support minimum guidelines. In January 2017, the court increased respondent's child-support obligation based on his employment income, found a downward deviation appropriate,

and set his monthly child-support obligation at $3000. The order also resolved (1) a request for retroactive child support, (2) petitioner's contempt petition, and (3) the parties' requests for attorney fees.

¶ 3 Petitioner appeals, arguing the trial court erred by (1) improperly calculating respondent's child-support obligation and denying petitioner's request for contribution to childcare expenses; (2) declining to order child support retroactive to the filing date of the petition to modify; (3) finding respondent was not in contempt for his failure to pay a portion of K.L.'s medical expenses; and (4) denying petitioner's request for attorney fees. For the following reasons, we affirm in part, vacate in part, and remand with directions.

¶ 4 I. BACKGROUND

¶ 5 Petitioner and respondent were never married, but they share a daughter who has special needs with a diagnosis of Down's syndrome, Trisomy 21, which required multiple surgeries and physical, occupational, and speech therapy. In September 2012, petitioner filed a petition to establish child custody, visitation, and support. In part, the petition requested respondent pay (1) child support, (2) half of K.L.'s medical bills, and (3) half of the costs for day care or childcare. In October 2013, the trial court entered an order establishing child custody, visitation, and support.

¶ 6 A. October 2013 Order

¶ 7 In October 2013, the trial court entered an order (1) establishing paternity of K.L., (2) granting primary physical custody of K.L. to petitioner, (3) granting respondent regular monthly and holiday visitation with K.L., and (4) establishing respondent's child-support obligation. The order contained the following child-support provisions:

"According to the exhibits and evidence presented, [respondent's] net income is $6,643.00 per month, thus making his statutory monthly obligation $866.00 per month. [Respondent] has voluntarily agreed to an upward deviation of an additional $134.00 per month, resulting in a child[-]support obligation of $1,000.00 per month. *** The [c]ourt notes that [respondent's] independent consulting firm is in the beginning stages and that his income may ultimately increase. As such, [respondent] shall provide to [petitioner] his income earning statements from the business on a quarterly basis. If there is a substantial change in circumstances, either party may petition the [c]ourt to modify child support.

Based on the disproportionate incomes, [petitioner] will continue to provide the costs of day[ ]care and [K.L.'s] nanny. [Petitioner] will claim the dependency tax credit each year. Both parties will continue to provide medical insurance for their daughter, but [petitioner] will pay 65% of the non-reimbursed medical and therapy expenses, and [respondent] will pay 35% of the non-covered medical/therapy expenses.

[Respondent] will be responsible for all travel costs related to his visitation periods."

¶ 8 The 2013 order also included the following language related to medical and health care treatments: "Both parents shall exercise their best efforts to agree on medical, dental[,] and mental health treatment for each child [*sic*]. In the event the parties are not able to agree with

regard to this issue, Carolyn shall have the final say in determining the medical, dental[,] and mental health treatment their child will receive." The order also had a provision that stated, "[e]lective medical treatment, including therapy and counseling, shall only be performed after agreement between both parents. In the event both parties cannot agree, said decision shall be submitted to mediation and, at the option of either party, to a [c]ourt of competent jurisdiction."

¶ 9 B. Petition for Modification of Child Support

¶ 10 In September 2014, petitioner filed a petition for modification of child support. The petition alleged a substantial change in circumstances based on respondent's employment as the senior vice president of sales at Catalyst Card Company (Catalyst) and his supplemental income from either TRK Consulting or REL Consulting Corporation. The trial court held a hearing on the petition for modification on three nonconsecutive days in June, September, and November 2016. We summarize only those facts necessary to resolve this appeal.

¶ 11 Respondent testified he retired from 3M in August 2012, after working for the company for 32 years. As part of his severance package, respondent received $400,000, of which $100,000 was placed in an account maintained at Wells Fargo. While still employed with 3M, respondent earned a base annual salary of approximately $250,000 plus an additional performance-based bonus. Respondent testified he was also awarded stock options in his last 15 years at 3M because he met his targets. There were two different types of stock options: restricted stock and general stock. According to respondent, restricted stock had to mature before it could be sold. Petitioner's exhibit No. 22 contained copies of respondent's long-term incentive plan, including (1) general stock options granted in 2010, 2011, and 2012, which vested in 2011 through 2015; and (2) restricted stock options granted in 2010, 2011, and 2012, which vested in 2013 through 2015.

¶ 12 Respondent acknowledged he signed a financial affidavit prior to the trial court's October 2013 order. In the 2013 affidavit, respondent identified his pension as the source of his $6643 gross monthly income and testified it was "[t]he only source of reoccurring income." The affidavit further disclosed a Fidelity Investments (Fidelity) brokerage account in the amount of $554,000. However, the affidavit did not list any income from investments or withdrawals from the Fidelity account. Counsel for petitioner asked whether it was true respondent had withdrawn $230,000 from the Fidelity account in 2013. Although respondent could not recall the precise amount, he acknowledged he sold some stock to cover his monthly expenses.

¶ 13 Respondent's 2013 tax return identified approximately $230,000 in wages, salaries, and tips. According to respondent, that income was from his 3M stock options. The 2013 tax return also identified $3424 in dividends, $18,915 in capital gains, and $79,716 from his pension. Respondent's gross income in 2013 was $332,911. Other than identifying the Fidelity brokerage account, the 2013 financial affidavit did not disclose the $230,000 withdrawn from the Fidelity account to cover respondent's expenses.

¶ 14 A November 2014 financial affidavit also listed only the $6643 monthly pension as respondent's gross income. However, respondent acknowledged he continued to withdraw between $10,000 and $30,000 per month from his Fidelity account, which he did not list as income on his financial affidavit because it was not "reoccurring." The 2014 affidavit indicated respondent had no employment at the time. Respondent was working as a consultant for Catalyst, a start-up founded by two personal friends. Respondent did not receive compensation for this consulting work, but Catalyst reimbursed him for any expenses he incurred. Bank records show respondent withdrew $61,494 from his Fidelity account from September through December 2014.

¶ 15 Respondent's 2015 federal income tax return shows an adjusted gross income of $289,881. The tax return showed respondent received $182,188 in wages and salary from his "Fidelity stock options from 3M." Bank records show respondent withdrew $221,659 from his Fidelity account from February 2015 through December 2015.

¶ 16 According to respondent, on March 1, 2016, he received an offer of employment with Catalyst, including an annual salary of $150,000 and an annual sales incentive bonus. When he began receiving this salary, respondent voluntarily wrote additional child-support checks for approximately $1400 per month. Respondent testified he withdrew $23,000 from his Fidelity account in March 2016 and bank records show one additional $5000 withdrawal from his Fidelity account in February 2016. No other withdrawals were made from the Fidelity account during this time period.

¶ 17 C. Modification Order

¶ 18 In January 2017, the trial court entered an order modifying respondent's child-support obligation. The court found a substantial change in circumstances required modification of the 2013 order. The 2013 order was predicated on respondent's pension as his only source of income, but respondent returned to work and now earned a salary. The order further noted respondent also received income from his exercise of stock distributions.

¶ 19 Having found a substantial change of circumstances, the trial court then determined the amount of support to be paid by respondent. The court first addressed petitioner's claim that respondent was earning income in his capacity as an executive employee with Catalyst as early as 2013. The court found the evidence presented suggested "only that [respondent] was receiving reimbursement for his expenses incurred for building the business. *** What has been proved by the evidence is that [respondent] became Catalyst's employee in March 2016. Prior to

that time, [respondent] was receiving reimbursements for his expenses from Catalyst on an irregular basis and in varying amounts." The court declined to consider the expense reimbursements as respondent's income for 2013 through 2015. Additionally, the court did not find respondent "was voluntarily unemployed or underemployed or that he was attempting to evade support or unreasonably failing to take advantage of an employment opportunity."

¶ 20 The trial court then discussed the parties' arguments regarding respondent's exercise of his 3M stock options. Petitioner asserted respondent "should pay 20% of his net income realized from exercise of his 3M stock. [Respondent's] counterargument is that the stock options and withdrawals from [respondent's] investment account should not be included as income for support because (1) they are non-recurring and (2) they are essentially a cash exchange." The court rejected respondent's argument and determined "distributions of previously unvested stock options which vest and result in a gain to the holder" should be included in calculating a child-support obligation. In so finding, the court relied on *In re Marriage of Colangelo*, 355 Ill. App. 3d 383, 822 N.E.2d 571 (2005). The court distinguished *In re Marriage of Marsh*, 2013 IL App (2d) 130423, 3 N.E.3d 389, which held that the conversion of stock into cash with no gain in value was not to be included as income in calculating child support. Because respondent was receiving gains from the exercise of his stock options, the court included his stock distributions in calculating his income.

¶ 21 In calculating respondent's statutory guideline support obligation, the trial court wrote as follows:

> "[Respondent] earns an annual salary of $150,000 from Catalyst, his pension of $79,716[,] and his income from withdrawals from his Fidelity account. The evidence is that he will

> continue to draw income from his sale of stock. Pursuant to 750 ILCS 5/505, the [c]ourt finds [respondent's] net monthly income for support purposes to be $20,742. His guideline support obligation is found to be $4,149. The [c]ourt adopts [petitioner's] position with respect to [respondent's] 2016 earnings *vis*[*-à-*]*vis* his average income from exercise of stock January through April 2016, as stated on page 13, enumerated paragraph 3."

Petitioner's written closing argument included the following relevant language calculating respondent's 2016 income: "$150,000 (Catalyst Employment); $111,600 (average stock income based on withdrawals from January through April of 2016); $3,840 (dividends); $17,328 (average three year capital gains); $79,716 (pension)." The court's calculations show respondent has a gross monthly income of $30,207, to which the court added $320 in dividends and $6643 from his pension. The court then deducted $16,428 to reach a net income of $20,742. Finally, the court calculated guideline support in the amount of $4149 per month.

¶ 22 In considering respondent's request for a downward deviation, the trial court noted both parties were high earners and "their respective incomes [were] in the same general ballpark." The court assessed the potential for a windfall if guideline support was ordered and stated its belief that a windfall was a near certainty. The court further noted, "[respondent] is under no duty to support [petitioner's] other children, or for that matter [petitioner], through his support payments."

¶ 23 D. Contempt Finding

¶ 24 In September and November 2014, petitioner sent requests for reimbursement of K.L.'s medical expenses from September 6, 2012, through August 26, 2014, in the amount of

$2204.69. The requests included a spreadsheet outlining the expenses and the underlying bills received from providers. In February 2015, petitioner filed a petition for rule to show cause because respondent did not respond to the request for reimbursement. In March 2015, petitioner sent another request for reimbursement of K.L.'s medical expenses from August 2014 through February 2015 in the amount of $669.45.

¶ 25 In April 2015, respondent objected to petitioner's requests for reimbursement for expenses (1) incurred prior to the entry of the 2013 order; and (2) for speech therapy, which was elective and not agreed to by respondent. Respondent further objected because it appeared as though petitioner was not submitting bills to respondent's insurance. Respondent paid, under protest, $684.50.

¶ 26 In November 2015, petitioner sent a third request for reimbursement of K.L.'s medical expenses from March 2015 through October 2015 in the amount of $1231.68. In December 2015, respondent paid $536.93, but he continued to object to petitioner's failure to submit bills to his insurance. Respondent specifically declined to reimburse for music and speech therapy, as respondent was not consulted regarding those services as required by the 2013 order. Respondent testified he refused to pay for music and speech therapy because petitioner made the decision to enroll K.L. without consulting him.

¶ 27 In the January 2017 order, the trial court found respondent had not willfully violated the provisions of the 2013 order. The court credited respondent's testimony that he was not advised or consulted about expenses regarding music and speech therapy and was excluded from the decision-making process.

¶ 28 E. Discovery Sanctions

¶ 29 The docket entries in the record show petitioner filed two motions to compel requesting attorney fees for alleged discovery violations. There was a hearing on the motions to compel and a docket entry states the court ordered counsel to exchange updated financial affidavits and recent tax returns. The record does not contain transcripts of any pretrial hearings; however, petitioner again raised the issue of sanctions for discovery violations in her written closing argument following trial. In its written order on petitioner's motion to modify child support, the court found respondent had not acted in a willful or contumacious disregard for the rules of discovery.

¶ 30 This appeal followed.

¶ 31 II. ANALYSIS

¶ 32 On appeal, petitioner argues the trial court erred by (1) improperly calculating respondent's child-support obligation and denying petitioner's request for contribution to childcare expenses; (2) declining to order child support retroactive to the filing date of the petition to modify; (3) finding respondent was not in contempt for his failure to pay a portion of K.L.'s medical expenses; and (4) denying petitioner's request for attorney fees.

¶ 33 A. Respondent's Child-Support Obligation

¶ 34 Petitioner contends the trial court erred by (1) ordering respondent to pay $3000 per month in child support, and (2) not requiring respondent to contribute to K.L.'s childcare expenses. Specifically, petitioner asserts (1) the trial court improperly calculated petitioner's income, equated the parties' lifestyles, denied petitioner's request for contribution to childcare expenses, and did not award 20% of respondent's annual bonus as child support; (2) respondent did not produce compelling reasons to justify a downward deviation from statutory support

guidelines; and (3) the court erred by failing to impute income to respondent based on his underemployment from 2013 through March 2016.

¶ 35 1. *Standard of Review*

¶ 36 Section 505 of the Illinois Marriage and Dissolution of Marriage Act provides statutory guidelines for child support. 750 ILCS 5/505(a) (West 2016). At the time of the proceedings in this case, section 505(a)(1) provided a statutory guideline for support of one child of 20% of the obligated parent's net income. Section 505(a)(2) allowed a trial court to deviate from the statutory guidelines in an appropriate case after considering the child's best interest and, among other factors, "the financial resources and needs of the parents." 750 ILCS 5/505(a)(2) (West 2016). "The findings of the trial court as to net income and the award of child support are within its sound discretion and will not be disturbed on appeal absent an abuse of discretion." *In re Marriage of Breitenfeldt*, 362 Ill. App. 3d 668, 675, 840 N.E.2d 694, 700 (2005). We will find an abuse of discretion only where no reasonable person would take the view adopted by the trial court. *In re Marriage of Pratt*, 2014 IL App (1st) 130465, ¶ 22, 17 N.E.3d 678.

¶ 37 2. *Determination of Respondent's Net Income*

¶ 38 Our review of the record has revealed mathematical errors in the trial court's calculation of respondent's guideline support. We begin by addressing these errors.

¶ 39 The trial court adopted petitioner's position regarding respondent's "average income from exercise of stock January through April 2016." Petitioner's written closing argument included the following relevant language calculating respondent's 2016 income: "$150,000 (Catalyst Employment); $111,600 (average stock income based on withdrawals from January through April of 2016); $3,840 (dividends); $17,328 (average three year capital gains); $79,716 (pension)." The court's calculations show all these amounts were added together and

divided by 12 to reach respondent's monthly "salary" of $30,207. The trial court took $30,207 as respondent's gross monthly salary and added $320 in interest and dividends and $6643 from respondent's monthly pension to reach a gross monthly income of $37,170. This was an error because the monthly salary already took into account the annual pension amount of $79,716 and $3840 in dividends. Accordingly, the court essentially double-counted respondent's income from his pension and dividends and those additional amounts should be disregarded. Disregarding these additional amounts leaves respondent with a gross monthly income of $30,207.

¶ 40 Moreover, our review of the record reveals an error in petitioner's calculation of respondent's average stock income based on withdrawals from January through April 2016. The record shows respondent deposited $28,000 into his Wells Fargo account from his Fidelity account from January through April 2016. This averages out to $84,000 for the entire year, not $111,600, as calculated by petitioner. Although we make no finding as to the propriety of this method of calculating respondent's income from stock options, using this properly calculated average results in a gross monthly income of $27,907. After $16,428 in deductions, respondent's net monthly income was $11,479, which works out to a guideline support minimum of $2295.80. This amount is substantially lower than the $3000 per month the court ordered and almost $2000 lower than the amount the court calculated as guideline support.

¶ 41 Given the disparity between our calculation of guideline support and the trial court's calculations, we conclude the court's child-support modification order must be vacated and the matter must be remanded for further proceedings. The trial court was concerned about the potential windfall to petitioner if it ordered guideline support, child support retroactive to the date the petition to modify was filed, contribution to childcare expenses, and 20% of respondent's annual bonus. Because the guideline minimum support is substantially lower than

the court originally thought, the trial court should have the opportunity to revisit these decisions. On remand, we encourage the trial court to engage in a global recalculation of respondent's income following the filing of the petition to modify support.

¶ 42 As we have concluded remand is necessary for the trial court to recalculate respondent's income and enter another order dispensing with the parties' claims, we decline to address petitioner's contentions regarding the court's decision to (1) deviate downward from the statutory support guidelines and (2) deny childcare contributions. However, we address petitioner's claims regarding imputation of income and retroactive child support, as these are issues likely to arise in proceedings on remand.

¶ 43 3. *Imputed Income Based on Underemployment*

¶ 44 The trial court determined respondent was not voluntarily unemployed, underemployed, attempting to evade paying child support, or unreasonably failing to take advantage of an employment opportunity between his retirement and the commencement of his paid employment with Catalyst in March 2016. Petitioner contends the court erred by making this determination.

¶ 45 "In order to impute income, a court must find that one of the following factors applies: (1) the payor is voluntarily unemployed [citation]; (2) the payor is attempting to evade a support obligation [citation]; or (3) the payor has unreasonably failed to take advantage of an employment opportunity [citation]." *In re Marriage of Gosney*, 394 Ill. App. 3d 1073, 1077, 916 N.E.2d 614, 618-19 (2009). The absence of one of these factors prevents the court from imputing income to the noncustodial parent. *Id.*

¶ 46 Here, respondent was not voluntarily unemployed or underemployed. He accepted an early retirement package from 3M, which provided him with, in part, a monthly

pension. Although he initially worked for Catalyst in exchange for having his expenses reimbursed, this was not a typical case of voluntary unemployment. Respondent was not "working for free" as petitioner contends. Rather, he was working in exchange for having his expenses reimbursed in an effort to get a new business off the ground. Respondent's efforts led to a paid position as an executive in a growing business. Further, respondent's actions were not taken in an effort to avoid paying child support; indeed, the record shows respondent paid the court-ordered support during this time and voluntarily increased his payments upon receiving his first paycheck from Catalyst. The court did not err by refusing to impute income to respondent for the time period between the filing of the petition for modification in September 2014 and March 2016.

¶ 47 4. *Retroactive Child Support*

¶ 48 Petitioner next argues the trial court erred by not awarding retroactive child support back to September 8, 2014—the date she filed the petition to modify child support. "The question of whether modification of child support should be retroactive to the date of the filing of the petition for modification is in the sound discretion of the trial court." *Fedun v. Kuczek*, 155 Ill. App. 3d 798, 805, 508 N.E.2d 531, 536 (1987). In the instant case, the court stated in its order that it found a substantial change in circumstances, based on respondent's change in income due to his Catalyst salary and his receipt of income from his exercise of stock distributions. The court did award support retroactive to March 2016—the date of respondent's first Catalyst paycheck—based on his salary and his stock distributions. The court, however, failed to award support retroactive to September 2014—the date of the filing of the petition to modify—based on his stock distributions. This is the case, even though the record shows

respondent was receiving income from his stock distributions before the filing of the petition to modify and throughout the pendency of the matter.

¶ 49 The trial court's written order indicates it declined to order retroactive support because it found respondent was not responsible for any delay in the hearing of the petition to modify. In support, the court cited *In re Marriage of Carpel*, 232 Ill. App. 3d 806, 820, 597 N.E.2d 847, 858 (1992). In *Carpel*, the court highlighted that respondent did not cause a delay in the hearing on the motion to modify and the petitioner filed three petitions over the course of three years, based on the same claims, before she finally pursued those claims. This would have impacted the respondent's notice or expectation as to whether the petitioner was finally going to pursue her claims. We find the present case distinguishable where petitioner filed her petition to modify, promptly notified respondent, pursued discovery, and was otherwise diligent in pursuing her claims. Our position is supported by a more recent case, in which the supreme court stated "a retroactive modification is limited to only those installments that date back to the filing date of the petition for modification. This insures that the respondent is put on notice prior to any change being made with respect to the original child support and expense obligations." *In re Marriage of Petersen*, 2011 IL 110984, ¶ 18, 955 N.E.2d 1131. This language indicates the court should consider whether the obligated party had notice of a possible change in his or her child-support obligation in determining whether to order retroactive support.

¶ 50 Under the circumstances of this case, respondent's lack of responsibility for any delay was an inappropriate basis to justify the denial of retroactive support for the time period between the filing of the petition to modify and the date respondent began receiving a salary from Catalyst. Additionally, we note the inherent inconsistency in the court's decision to award retroactive support for the period between March 2016 and the January 2017 order based on

respondent's salary from Catalyst and on his income from stock distributions, but not to award retroactive support for the period between the September 2014 filing of the petition to modify and March 2016 when he was receiving income from stock distributions. Respondent does not contend he lacked notice of the petition and the record indicates he received income from stock distributions during that time. On remand, in exercising its discretion in determining whether to award retroactive support based on the stock distributions between the filing of the petition and March 2016, the court should not consider respondent's lack of responsibility for any delay.

¶ 51 B. Contempt

¶ 52 Petitioner asserts the trial court erred by finding respondent was not in contempt for his failure to pay 35% of K.L.'s uncovered medical expenses, as required by the 2013 order.

¶ 53 A trial court's contempt finding is reviewed under an abuse of discretion standard. *Banister v. Partridge*, 2013 IL App (4th) 120916, ¶ 54, 984 N.E.2d 598. The power to enforce an order to pay money is limited to cases of willful and contumacious refusal to obey the court's order. *In re Marriage of Logston*, 103 Ill. 2d 266, 285, 469 N.E.2d 167, 175 (1984). The court order must be specific and clear as to be susceptible of only one interpretation to support a contempt finding. *In re Marriage of Steinberg*, 302 Ill. App. 3d 845, 853, 706 N.E.2d 895, 900 (1998). " 'It must not only be capable of reasonable interpretation, but that interpretation must be to the exclusion of other reasonable interpretations; it must be unambiguous.' " *Id.* (quoting *O'Grady v. Cook County Sheriff's Merit Board*, 204 Ill. App. 3d 258, 262, 561 N.E.2d 1226, 1229 (1990)).

¶ 54 We conclude the trial court did not abuse its discretion in refusing to find respondent in contempt of court. The court credited respondent's testimony that he was not consulted regarding the speech and music therapy expenses and refused to pay those expenses

because he was excluded from the decision-making process. In support of this argument, respondent pointed to the provision in the 2013 trial court order that required the parties to agree on any elective medical expenses, including therapy and counseling. Contrary to petitioner's argument, she did not have the final word if the parties were unable to agree to elective treatments. The order stated the parties must seek mediation in the event they could not agree on elective therapies. The 2013 order does not specifically state which therapies K.L. was enrolled in at the time, but the testimony in this case established K.L. was enrolled in early-intervention speech therapy, which ended when she was three years old. At that time, petitioner elected to continue the speech therapy without early-intervention aid. The court credited respondent's testimony that he objected to this continued therapy and refused to pay for it based on his understanding of the 2013 order. The court's determination that respondent did not willfully violate the 2013 order was not against the manifest weight of the evidence and, therefore, was not an abuse of discretion. Accordingly, we affirm the court's judgment in this regard.

¶ 55 C. Attorney Fees

¶ 56 Finally, petitioner contends the trial court erred by not awarding her attorney fees based on respondent's (1) disregard for the rules of discovery and (2) failure to abide by the 2013 order requiring him to pay 35% of K.L.'s uncovered medical expenses. Respondent contends the record is insufficient to find the trial court abused its discretion by not entering sanctions against him for alleged discovery violations.

¶ 57 "It is well established that trial courts have wide discretionary powers in matters of pretrial discovery." *Redelmann v. K.A. Steel Chemicals, Inc.*, 377 Ill. App. 3d 971, 976, 879 N.E.2d 505, 511 (2007). Courts have the inherent authority to enter sanctions against a party for failure to obey orders and, even without violating an order, a court may sanction a party for

failing to comply with discovery rules. *Id.* at 976-77. "The trial court has discretion to impose a particular sanction and its decision will not be reversed absent a clear abuse of discretion." *In re Marriage of Bradley*, 2011 IL App (4th) 110392, ¶ 20, 961 N.E.2d 980.

¶ 58 The docket entries in the record show petitioner filed two motions to compel requesting attorney fees for alleged discovery violations. There was a hearing on the motions to compel and a docket entry states the court ordered counsel to exchange updated financial affidavits and recent tax returns. The record does not contain transcripts of any pretrial hearings; however, petitioner again raised the issue of sanctions for discovery violations in her written closing argument following trial. In its written order on petitioner's motion to modify child support, the court found respondent had not acted in a willful or contumacious disregard for the rules of discovery. Without transcripts of the hearing on the motions to compel or any pretrial hearings where discovery issues were raised, we " 'must presume the circuit court had a sufficient factual basis for its holding and that its order conforms with the law.' " *Redelmann*, 377 Ill. App. 3d at 977 (quoting *Corral v. Mervis Industries, Inc.*, 217 Ill. 2d 144, 157, 839 N.E.2d 524, 532 (2005)). Accordingly, we conclude the court did not abuse its discretion in declining to sanction respondent for alleged discovery violations.

¶ 59 III. CONCLUSION

¶ 60 For the reasons stated, we affirm in part, vacate in part, and remand for further proceedings.

¶ 61 Affirmed in part, vacated in part, and remanded with directions.